

**SENSITIVE**

RECEIVED  
FEDERAL ELECTION  
COMMISSION

2011 APR -8 AM 9:46

**BEFORE THE FEDERAL ELECTION COMMISSION**

2011 APR -8 AM 10:20

**CELA**

In the Matter of )  
MUR 6333 ) DISMISSAL AND CASE  
LOWRY FOR CONGRESS AND ) CLOSURE UNDER THE  
RUTH WEISS BELL, AS TREASURER ) ENFORCEMENT PRIORITY  
ROBERT PAUL LOWRY ) SYSTEM  
CHRIS LEGGATT )

**GENERAL COUNSEL'S REPORT**

Under the Enforcement Priority System ("EPS"), the Commission uses formal scoring criteria to allocate its resources and decide which cases to pursue. These criteria include, but are not limited to, an assessment of (1) the gravity of the alleged violation, both with respect to the type of activity and the amount in violation, (2) the apparent impact the alleged violation may have had on the electoral process, (3) the legal complexity of issues raised in the case, (4) recent trends in potential violations of the Act, and (5) development of the law with respect to certain subject matters. It is the Commission's policy that pursuing low-rated matters, compared to other higher-rated matters on the Enforcement docket, warrants the exercise of its prosecutorial discretion to dismiss certain cases. The Office of General Counsel has scored MUR 6333 as a low-rated matter and has also determined that it should not be referred to the Alternative Dispute Resolution Office. This Office therefore recommends that the Commission exercise its prosecutorial discretion to dismiss MUR 6333.

In this matter, the complainant, Scott Vrabel, alleges that candidate Robert Paul Lowry,<sup>1</sup> his campaign committee, Lowry for Congress and Ruth Weiss Bell, in her official

<sup>1</sup> Mr. Lowry unsuccessfully sought to represent Florida's 20<sup>th</sup> Congressional District.

11044292998

1 capacity as treasurer<sup>2</sup> ("the Committee"), and Mr. Lowry's campaign manager, Chris  
2 Leggatt, committed two separate violations of the Federal Election Campaign Act of 1971,  
3 as amended ("the Act"), and the underlying Commission regulations. First, the  
4 complainant asserts that, according to the Committee's financial disclosure reports, it  
5 accepted four \$220 contributions from the following corporations: Delwood Management  
6 Company, Inc. on October 19, 2009; Homefield Advantage Public Adjusters on October  
7 15, 2009;<sup>3</sup> Jim Mclean Enterprises, Inc. on November 30, 2009; and Lamar 1 Hour Dry  
8 Cleaners, Inc. on October 20, 2009. Thus, the Committee allegedly accepted a total of  
9 \$880 in contributions from corporations, in violation of 2 U.S.C. § 441b(a).

10 Second, the complainant maintains that "on numerous occasions," the Lowry  
11 campaign "has published and disseminated banners that lack the disclaimer 'Paid for by  
12 Lowry for Congress.'" Appended to the complaint are what appear to be photographs of  
13 banners that include the phrases "Lowry for Congress" and "United States Congress  
14 District 20," but which do not include disclaimers stating that the Committee had paid for  
15 the banner or banners, as required by 2 U.S.C. § 441d(a) and 11 C.F.R. §§ 110.11(a) and  
16 (b)(1).

17 Committee treasurer Ruth Bell filed two responses, one day apart, on behalf of the  
18 Lowry respondents. In her first response, an email dated March 29, 2011, Ms. Bell states  
19 that the banner at issue had included the disclaimer "Paid for by Lowry for Congress," and

---

<sup>2</sup> According to the Committee's filings, Jeremy David Anderson served as the Committee's treasurer during the events discussed herein.

<sup>3</sup> According to its website, Homefield Advantage Public Adjusters is incorporated within the State of Florida. See <http://www.corporationwiki.com/Florida/Pembroke-Pines/homefield-advantage-public-adjusters-inc-2240919.aspx>.

1 that photographs of the banner had been provided to the Federal Election Commission  
2 ("Commission") along with a letter from campaign manager Chris Leggatt. Ms. Bell  
3 included a copy of Mr. Leggatt's correspondence, dated August 20, 2010, which states that  
4 a single banner had been purchased "during the exploratory time," prior to the State of  
5 Florida's official designation of Mr. Lowry as a candidate, and that "this single banner  
6 proudly displays 'Paid for by Lowry for Congress.'" Mr. Leggatt's correspondence also  
7 refers to an accompanying photograph of the banner but, after reviewing our records, it  
8 does not appear that the Commission received either Mr. Leggatt's correspondence or the  
9 photograph.<sup>4</sup>

10 Initially, Mr. Leggatt's August 20, 2010 letter and Ms. Bell's March 29, 2011 email  
11 indicate that refund checks had been issued to the four corporations described in the  
12 complaint. However, in a subsequent email, dated March 30, 2011, Ms. Bell  
13 acknowledges that the refund checks had not yet been issued. She explains that the  
14 candidate, Mr. Lowry was arranging to make a loan to his campaign, presumably to cover  
15 the costs of the refunds, and would thereafter issue refund checks to the corporations that  
16 had made a total of \$880 in contributions.<sup>5</sup> Ms. Bell states that the loan and the corporate  
17 refunds will be reflected on the Committee's 2011 April Quarterly Report, which is due to

<sup>4</sup> The Committee's response indicates that the campaign manager responded to the complaint on August 20, 2010, however, there is no record of this Office receiving the response. The Committee's Treasurer has provided a copy of the letter in her response dated March 29, 2011.

<sup>5</sup> The Committee's most recently-filed financial disclosure report, its 2010 October Quarterly Report, shows that the Committee had cash on hand of only \$328.99.

11044293000

1 be filed on April 15, 2011.<sup>6</sup>

2 It appears from the complaint attachments that the Committee may have failed to  
3 include a proper disclaimer on its campaign banner. 11 C.F.R. §§ 110.11(a) and (b)(1).  
4 Moreover, the disclaimer would have required a box surrounding the text. See 11 C.F.R.  
5 §§ 110.11(c)(2)(ii). However, the Committee avers that it has a picture that shows the  
6 banner with the required disclaimer. Although the Committee claims that it has previously  
7 provided this Office with a picture of the banner showing the appropriate disclaimer, this  
8 Office has not received the response. Finally, the Committee has admitted to accepting  
9 contributions from corporations and has taken remedial action by refunding the  
10 contributions.

11 Even assuming *arguendo* that the banner lacked a disclaimer, it appears that the  
12 banner identified in the picture submitted by the complainant included sufficient  
13 identifying information, such as the Committee's website and Committee logo, that it was  
14 unlikely that the general public would have been confused about whether it was associated  
15 with the Lowry campaign. Additionally, although the Committee accepted corporate  
16 contributions, the amount involved is relatively small (\$880) and the Committee has taken  
17 remedial action by disclosing and refunding the contributions at issue. Accordingly, under  
18 EPS, the Office of General Counsel has scored MUR 6333 as a low-rated matter and,  
19 therefore, in furtherance of the Commission's priorities as discussed above, the Office of  
20 General Counsel believes that the Commission should exercise its prosecutorial discretion  
21 and dismiss this matter.

22 \_\_\_\_\_  
<sup>6</sup> As indicated by Ms. Hall, the Committee filed its 2011 April Quarterly Report on April 8, 2011,  
which reflected over \$880 in refunds to corporations identified in the complaint.

**RECOMMENDATIONS**


The Office of General Counsel recommends that the Commission dismiss

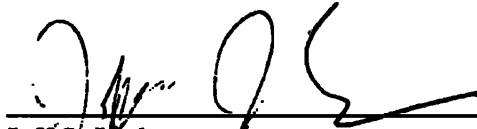
MUR 6333, close the file, and approve the appropriate letters.

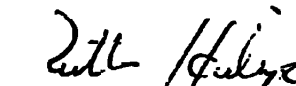
Christopher Hughey  
Acting General Counsel

4/10/11  
Date

BY:

  
\_\_\_\_\_  
Gregory R. Baker  
Special Counsel  
Complaints Examination  
& Legal Administration

  
\_\_\_\_\_  
Jeff S. Jordan  
Supervisory Attorney  
Complaints Examination  
& Legal Administration

  
\_\_\_\_\_  
Ruth Heilizer  
Attorney  
Complaints Examination  
& Legal Administration

11044293002